

### REMARKS

Claims 124-129 are pending. Applicants amend claims 125-129. The amendments are supported by pages 19, 20 and 30 of the specification. Therefore, no new matter has been added. Allowance of the claims therefore are solicited. Applicants appreciate that the examiner has withdrawn several rejections.

On page 4 of the office action, the examiner stated that claims 124-26 are entitled to the February 13, 1996 priority date, but the examiner further stated that claims 127-29 were entitled only to the October 2, 1996 priority date because these claims covered the MIR and CIR-SM embodiments. Applicants submit, however, that the February 13, 1996 application fully supports the claims, and therefore claims 127-29 also are entitled to the February 13, 1996 priority date.

Applicants now turn to the new prior art rejections. The Dijkstra reference discloses a treated polyethylene, but does not even mention its use to construct prostheses, much less a methodology to make such prostheses. Accordingly, this reference cannot anticipate the claims.

Turning to the Hyon reference, this patent issued in January 2, 2001, and therefore cannot be a 102(b) reference against the instant application. Hyon has a section 102(e) date of May 6, 1996, which is after applicant's earliest filing date. Applicants also have filed rule 131 declarations in a counterpart applications that are assigned to the examiner. These declarations show completion of the invention prior to the dates of Hyon patent. Accordingly, the Hyon patent is not prior art and the rejection should be withdrawn.

#### ***Double Patenting Rejections:***

On pages 4-5 of the office action, the Examiner has provisionally rejected the claims 124-127 under the judicially created doctrine of obviousness-type double patenting and alleged as being unpatentable over claims 124-129 and 131-134, and claims 124-125, 130 and 143-146 of copending application serial nos. 10/197,209 and 09/764,445, respectively.


Because applicants have not received any notice of allowance for the '209 or '445 applications, the merits of this provisional rejection need not be discussed at this time. See MPEP § 822.01.

**REQUEST**

Applicants submit that the claims 124-129 are in condition for allowance, and respectfully request favorable consideration to that effect. The Examiner is invited to contact the undersigned at (202) 416-6800 should there be any questions.

Respectfully submitted,

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Date

  
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